

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

PHILLIP SMITH,

Plaintiff,

vs.

TROY MILLER,

Defendant.

8:19CV298

**MEMORANDUM
AND ORDER**

The court is in receipt of correspondence from Plaintiff (Filing 19) in which he requests appointment of counsel and an extension of time for serving discovery requests.

The court cannot routinely appoint counsel in civil cases. In *Davis v. Scott*, 94 F.3d 444, 447 (8th Cir. 1996), the Eighth Circuit Court of Appeals explained that “[i]ndigent civil litigants do not have a constitutional or statutory right to appointed counsel.” Trial courts have “broad discretion to decide whether both the plaintiff and the court will benefit from the appointment of counsel, taking into account the factual and legal complexity of the case, the presence or absence of conflicting testimony, and the plaintiff’s ability to investigate the facts and present his claim.” *Id.* Having considered these factors, the request for the appointment of counsel will be denied without prejudice to reassertion.

However, Plaintiff’s request for extension of time will be granted, and both parties shall have an additional 21 days to serve discovery requests.

IT IS THEREFORE ORDERED that:

1. Plaintiff’s motion to appoint counsel (Filing 19) is denied without prejudice to reassertion.
2. Plaintiff’s motion for extension of time (Filing 19) is granted, and, accordingly, paragraph 1 of the court’s Order Setting Schedule for Progression of Case (Filing 17) is amended to read as follows:

All depositions, whether or not they are intended to be used at trial, shall be completed by June 2, 2020. All interrogatories, requests for admission and requests for production or inspection, whether or not they are intended to be used at trial, shall be served on or before April 16, 2020.

In all other respects the progression order shall remain unchanged.

Dated this 12th day of March, 2020.

BY THE COURT:

A handwritten signature in blue ink that reads "Richard G. Kopf". The signature is written in a cursive, flowing style.

Richard G. Kopf
Senior United States District Judge